

SENATE BILL REPORT

SHB 2871

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, February 28, 2008

Title: An act relating to penalties for small scale prospecting and mining violations.

Brief Description: Regarding penalties for small scale prospecting and mining violations.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Kretz and McCune).

Brief History: Passed House: 2/13/08, 96-0.

Committee Activity: Natural Resources, Ocean & Recreation: 2/25/08, 2/28/08 [DPF].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Staff: Sherry McNamara (786-7402)

Background: A person must obtain a hydraulic project approval (HPA) for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. The HPAs are issued by the Department of Fish and Wildlife (DFW) to ensure the proper protection of fish life.

Under the current statute small scale prospecting and mining does not require a hydraulic permit (HPA), if the prospecting is conducted in accordance with rules adopted by DFW. The rules are published in the *Gold and Fish Pamphlet*, which serves as the HPA.

Small scale prospecting and mining is defined as the use of pans, nonmotorized sluice boxes, concentrators, and minirocker boxes for the discovery and recovery of minerals.

Small scale prospecting and mining in violation of the standards established in the *Gold and Fish Pamphlet* may be subject to criminal enforcement. The unlawful undertaking of a hydraulics activity is a gross misdemeanor.

The Legislature has decriminalized certain statutory violations of the natural resources code and provided for a civil process. A person who is found guilty of a natural resources infraction is assessed a monetary penalty not to exceed \$500 unless specifically authorized by statute.

Summary of Bill (Proposed Amendments): Actions involving small scale prospecting and mining that are in violation of the *Gold and Fish Pamphlet* are a natural resources infraction.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

DFW may issue a stop work order to a person who fails to follow the requirements of obtaining a hydraulic project approval or fails to carry out any of the requirements or conditions of a hydraulic project approval.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES, OCEAN & RECREATION COMMITTEE (Proposed Amendments): The amendment makes violations of the *Gold and Fish Pamphlet* a natural resource infraction instead of a gross misdemeanor. In addition, DFW may issue a stop work order to a person who fails to follow the requirements of obtaining a hydraulic project approval or fails to carry out any of the requirements or conditions of a hydraulic project approval.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony Substitute Bill: PRO: Recreational small scale prospecting and mining is having a positive impact on the environment; it has helped to remove mercury and lead from the state's waters. The recreational mining and prospecting activities are important to families and their children; and any violations should not be subject to criminal penalties. Currently, a child could be guilty of a felony under the existing law. The penalty should be reduced to an infraction. People have lost their jobs and their right to vote because of the severity of the criminal penalties. Small scale prospecting and mining is temporary and non-significant in scope and impact.

The DFW is supportive of the amendment. Motorized mining equipment can cause enormous environmental damage. The department does not have the ability to issue a stop work order.

Persons Testifying: PRO: Mark Erickson, Resource's Coalition; Scott Atkinson, Northwest Mineral Prospectors; Bruce Beatty, citizen; Rob Matthews, Western Washington Gold Prospectors Association of America Chapter; Harley Edwards, citizen; Mike Cenci, Peter Birch, DFW.